IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

Bail Appl..No. 3620 of 2007()

PETITIONER/ACCUSED

V.V.AUGUSTINE, RETIRED ASSISTANT
SUB-INSPECTOR OF POLICE, VAZHEKKATTU HOUSE,
ITHITHANAM P.O., KURICHY, KOTTAYAM.

BY ADV. SRI.M.P.MADHAVANKUTTY

RESPONDENTS: COMPLAINANT

SUPERINTENDENT OF POLICE,
C.B.I. COCHIN DIVISION,
REPRESENTED BY STANDING COUNSEL,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER
SRI.S.SREEKUMAR, SC FOR CBI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.3620 of 2007

Dated this the 18th day of June 2007

O R D E R

Application for anticipatory bail. The petitioner apprehends that he may be arrested as an accused in the ill-famous Abhaya murder case. The alleged incident had taken place as early as on 27/3/1992. It is now concluded and reported to the court that it was a case of murder. But unfortunately, in spite of deployment of the C.B.I, the mystery of the crime remains unresolved. The petitioner was the A.S.I, who prepared the inquest report. He apprehends that the new investigation team which has now taken over and which has questioned him sufficiently by now, may arrest him leading to his unnecessary incarceration. The petitioner submits that he is absolutely innocent. He has only discharged his official duties. He has been questioned by a number of investigating officers by now. He has co-operated with the investigating officers to the maximum extent. In these circumstances, he may be granted anticipatory bail, it is prayed. After the discussions at the bar,

the learned counsel for the petitioner only submits that the submission of the learned Standing Counsel for C.B.I that the petitioner is not arrayed as an accused even now, may be recorded and this petition closed.

2. That can of course be done. But the learned Standing Counsel for the CBI submits that the petitioner may not be permitted to arm himself with any order of anticipatory bail. The petitioner is shown to be responsible for some incorrect statements in the inquest report. The signatures of some persons are forged. He may have done these in an attempt to save the real culprits, whose identity is not ascertained so far. He has hence got to be interrogated thoroughly. I find merit in that submission. It is the need of the system and the polity that this crime, that had taken place about fifteen years back, must be resolved satisfactorily. Every serious effort must be undertaken to resolve the mystery in the interests of confidence of the polity in the ability of the criminal investigative system to ascertain the truth. The credibility of the C.B.I is also at stake. They must put in every serious and active effort to resolve the crime. I am not at all persuaded that it is necessary to permit

anyone to arm himself with an order of anticipatory bail which would impede the truth discovery process. I am, in these circumstances, satisfied that the petitioner is not entitled for anticipatory bail. I accept the submission of the learned counsel for the petitioner and record the submission of the learned Standing Counsel for CBI that the petitioner has not so far been made an accused; but his further interrogation/examination is necessary. I have no reason to assume that the special investigation team, which has taken over would abuse the right which they have under the code to question the petitioner in the attempt to discover and unearth the truth.

3. This petition is, in these circumstances, dismissed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007